

HCS HB 504, 505 & 874 -- DOMESTIC VIOLENCE

SPONSOR: Cox (Diehl)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 12 to 0.

This substitute changes the laws regarding domestic violence and orders of protection. In its main provisions, the substitute:

(1) Defines "child" as any person younger than 17 years of age unless he or she is emancipated;

(2) Defines "domestic violence" as abuse or stalking;

(3) Revises the definition of "family" or "household member" to include any person related by blood or marriage; persons presently residing together or who have resided together in the past; any person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim; and anyone who has a child in common regardless of whether they have been married or have resided together at any time;

(4) Requires the local law enforcement agency or any other government agency responsible for serving ex parte orders of protection to enter service information into the State Highway Patrol's Missouri Uniform Law Enforcement System (MULES) or future electronic databases that are intended for law enforcement use within 24 hours after an ex parte order is served on a respondent;

(5) Specifies that the provisions regarding the Amber Alert System will be known as Sam and Lindsey's Law and revises it to include:

(a) Allowing the court upon a finding that it is in the best interest of the parties to include a provision in a full order of protection with a duration of one year that the order must automatically renew unless the respondent requests a hearing within 30 days prior to the expiration of the order;

(b) Requiring the law enforcement agency maintaining MULES to enter information contained in an order of protection including any orders regarding child custody or visitation and all specifics as to the times and dates of custody or visitation provided in the order. Any change in child custody or visitation within an order must be issued to the local law enforcement agency and the agency responsible for entering the information into MULES. Any expiration, termination, or change must be entered within 24 hours of receiving the notice; and

(c) Requiring the court to cause a copy of any objection filed by the respondent and a notice of the date set for the hearing on that objection to an automatic renewal of a full order of protection with a duration of one year to be personally served upon the petitioner by a personal process server, sheriff, or police officer at least three days prior to the hearing. This service of process must take priority over service in all other actions except those of a similar emergency nature;

(6) Specifies that before the court terminates any order of protection, it can examine the circumstances of the motion to dismiss the order and may inquire of the petitioner or others in order to assist the court in determining if the dismissal is voluntary;

(7) Requires a court to transfer a case to juvenile court for a hearing on a full order of protection if an ex parte order is entered and the respondent is younger than 17 years of age;

(8) Requires any ex parte order of protection to be for the purpose of protecting the victim from domestic violence which can include restraining the respondent from communicating with the victim in any manner or through any medium;

(9) Requires any full order of protection to be for the purpose of protecting the victim from domestic violence which can include temporarily enjoining the respondent from communicating with the victim in any manner or through any medium;

(10) Specifies that a respondent in violation of an ex parte or full order of protection for a child will be guilty of a class A misdemeanor for entering a petitioner's place of employment or school or for being within a certain distance of the petitioner or a child of the petitioner. If the respondent has previously pled guilty to or has been found guilty of violating an order of protection within five years of the date of the subsequent violation, he or she will be guilty of a class D felony. Evidence of a prior plea of guilty or finding of guilt must be heard by the court out of the presence of the jury. If the court finds the existence of a prior plea of guilty or a finding of guilt beyond a reasonable doubt, the court must decide the extent or duration of the sentence or other disposition and cannot instruct the jury regarding the range of punishment or allow the jury to assess the punishment as part of its verdict;

(11) Requires the Division of Probation and Parole within the Department of Corrections to establish standards and to adopt a credentialing process for any court-appointed batterer intervention program;

(12) Specifies that any person who has pled guilty to or been found guilty of any offense committed in violation of any county or municipal ordinance in any state or any state, federal, or military law which, if committed in Missouri, would be a third degree domestic assault will be guilty of a class D felony for the third or any subsequent commission of the crime of domestic assault;

(13) Prohibits a public or private agency providing services to victims from using more than 10% of any funds received from the Service to Victims Fund for administrative purposes; and

(14) Requires the Department of Public Safety to establish the maximum reimbursement rate for a forensic examination for a victim of a sexual offense.

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of Could exceed \$100,000 in FY 2012, FY 2013, and FY 2014. No impact on Other State Funds in FY 2012, FY 2013, and FY 2014.

PROPONENTS: Supporters of the bills say that the legislation updates the laws regarding domestic violence and incorporates the recommendations of the Domestic Violence Task Force.

Testifying for HB 504 and 505 were Representatives Silvey and Kelly (24); Office of the Attorney General; Missouri Coalition Against Domestic and Sexual Violence; Missouri Office of Prosecution Services; Department of Public Safety; The Missouri Bar Association; Office of State Courts Administrator; and Eric Kurzegeski.

Testifying for HB 874 were Representatives Grisamore and Kander; Office of the Attorney General; and Missouri Coalition Against Domestic and Sexual Violence.

OPPONENTS: There was no opposition voiced to the committee.